

Libby Community Advisory Group

Meeting Summary

April 10, 2003

Introductions

Gerald Mueller and members of the Libby Community Advisory Group (CAG) introduced themselves. A list of the members and visitors in attendance is attached below as Appendix 1.

Agenda

Mr. Mueller reviewed the following agenda for this meeting:

- EPA Report
- State Report
- TAG Report
- Horinko Letter
- CARD Clinic Report
- CAG Issues
- Public Comment

EPA Report

Jim Christiansen introduced Dr. Aubrey Miller who has taken Chris Weis' toxicologist and science advisor position in EPA Region 8. He then reported on behalf of EPA on the following topics:

Residential and Commercial Cleanups - EPA is continuing winter, indoor-only cleanup. EPA's goal is to have 40 residences/commercial buildings completed by this April 30. Currently four cleanups are underway. The completion rate is about four or five per week. The cleanup cost per residence is in the \$30 thousand range and has been dropping as EPA is able to address houses in one area of town. In mid-May, outside cleanups will begin. The indoor cleanups will stop when attics become too hot for the workers who must wear protective clothing. The annual cleanup target is 250 - 300, or about 8 residences per week. Adequate funding for cleanups is available for this year.

Economic Redevelopment Workshop - While EPA is not a economic development agency, provisions of two statutes, the Brown Fields and the Superfund Redevelop laws, provide it with some redevelopment authority. Unfortunately, neither of these statutes is a good fit for Libby. However, when the Stimson plywood mill shut down, EPA decided to convene a redevelopment workshop to get local stakeholders together with representatives of other state and federal agencies that might have redevelopment funding. The workshop is scheduled for April 25 and 26. The agenda has not yet been finalized, but it will include addresses by Senator Burns and Congressman Rehberg on Friday, April 25 and by Governor Martz and a motivational speaker on Saturday, April 26. Ads for the workshop will run in local newspapers and on local radio.

CAG Member Question - At the recent meeting of the Technical Advisory Group, we learned that the Libby Superfund site consists of five operable units. Could you clarify what the five are?

Answer - The five include the screening plant site, the export plant site, the mine and mine road, the residential and commercial buildings in Libby, and the City of Troy. We will begin the investigation of the Troy unit next year. The State of Montana will be the lead agency for the Troy site using EPA funding.

CAG Member Question - What is the status of the mine cleanup?

Answer - Because of its isolation, the mine site is a lessor cleanup priority. About \$1 million has

been allocated in the 2004 budget to begin the investigation of the mine and mine road, including air quality sampling and sampling on USFS and Plum Creek lands.

CAG Member Question - Does EPA need community support to assure the \$1 million for the mine investigation?

Answer - I don't think so. We have been keeping our supervisors informed of Libby budget needs.

State Report

Dr. Michael Spence, the Montana State Medical Officer, reported on behalf of the State. He introduced Maggie Bullock, the Administrator of the Health Policy and Services Division, and the three people, Sharon Pesicka, Carol Holoboff, and Laura Wilson, who will be staffing the new asbestos screening facility which the State is opening at 609 Mineral Avenue.

Technical Advisory Group Report

George Keck reported on behalf of the Technical Advisory Group (TAG). As of last Tuesday night's meeting, the TAG has in place its board of directors and executive committee. The TAG will be surveying people in the community for their expertise and experience so that it can form "tiger teams" that will address specific issues and then disband.

CAG Member Question - What is the TAG's purpose and scope?

Answer - The TAG's purpose is to review the cleanup activities at the five operable units described by Jim Christiansen and make recommendations about them. We have obtained a \$50 thousand, three year grant which has a 20% local matching requirement. Volunteer time will constitute the matching requirement. Some 28 months are left in the grant period. We receive the grant funds to pay back our expenditures.

CAG Member Question - So the TAG will be reviewing Jim Christiansen's cleanup plans?

Answer - Yes. We will also look at the question of how much cleanup will be enough.

CAG Member Question - What staff will the TAG have?

Answer - We will soon be advertising for two positions, a part time administrator and a technical advisor. We intend to fill these positions by June 1. Anyone interested may apply.

Horinko Letter

Gerald Mueller passed out copies of a letter dated April 1, 2003 from EPA Assistant Administrator Marianne Horinko to Jerry Hersman. (See Appendix 2.) He then read the letter. Sandy Wagner explained that the letter is a reply to the January 16, 2003 letter which she drafted on behalf of the CAG to Montana's Congressional delegation requesting that a public health emergency be declared at Libby. Mr. Hersman had sent a copy of this letter under a cover letter dated February 20, 2003 to EPA Administrator Christine Todd Whitman.

CAG Member Question - Could someone please decipher this letter?

Answer by Jim Christiansen - EPA appears to saying that this is an issue for ATSDR. If EPA had made the declaration, doing so would not have affected ATSDR's independent authority or produced money or facilities for long-term health care.

CAG Member Comment - Maybe we should have been trying harder with HHS.

Response by Dr. Aubrey Miller - We have had a federal and state team working on what is needed for Libby. We have been looking into the programs that HHS delivers. We first conducted a needs assessment and determined that many Libby people do not have health insurance and many have asbestos-related disease. Two years ago we applied for an HHS grant, but were not successful. Dr. Sloan, who has since retired, shepherded another grant to establish a community health center to provide primary health care in Libby. The W.R. Grace Health Plan funds some needed health care. While designating a public health emergency would provide authority to deliver health care, ATSDR does not have the program, funding, or medical expertise to do so. EPA also lacks the medical funding and expertise. Congress could provide the necessary programmatic authority and funding, but it has not done so. At this point the federal and state team does not know what to do. Locally, the Community Health Center, the CARD Clinic, St. John's Lutheran Hospital, and the new state screening facility are providing needed services, but they need to be better integrated to serve sick people as efficiently as possible.

CAG Member Question - What is ATSDR's position on the public health emergency declaration?

Answer by Dan Straughnsbaugh - Some weeks ago, I developed with ATSDR management the following talking points regarding the declaration of a public health emergency in Libby. I have not indications that ATSDR has changed its position.

Since November, 1999, ATSDR has worked closely with EPA, the community, and state and Federal agencies to stop exposures to asbestos in Libby and to protect the public health of residents. In support of the community, and to determine the possible health effects from exposure to tremolite asbestos, ATSDR has conducted the largest medical screening program in its history. To date, more than 7,300 people have been screened for lung abnormalities. These public health activities are consistent with ATSDR's statutory authorities.

With regard to the public health emergency clause in section 104 (i) of the 1980 Superfund legislation, public health hospitals have been decommissioned since the mid 1980s. Currently, no public health hospitals operate in the U.S. Furthermore, ATSDR does not have the resources to provide health care services as described in 104 (i) of the Superfund legislation; nor is ATSDR authorized to provide health care services to communities.

However, ATSDR has worked proactively with other HHS agencies to support community initiatives regarding access to health care services. To improve access to health care services in Libby, ATSDR has worked with HRSA and SAMHSA to establish a community health clinic and to provide mental health services as well.

Libby has been and will continue to be one of the most important public health sites for ATSDR. ATSDR is capable of conducting all necessary public health activities in Libby without declaring a public health emergency. At this time, neither DHHS nor ATSDR are planning to declare a public health emergency in Libby. The public health agencies will continue to work with EPA, other Federal and state agencies, and the community to prevent exposure to asbestos and protect the health of current and future Libby residents.

CAG Member Comment - We have heard all of this before. Our need for health care is falling through the cracks. We also need to develop a base of information for research.

CAG Member Question - Is the state's screening protocol the same as that of the previous ATSDR screening?

Answer by Dr. Spence - The screening by the state will be conducted in the same manner as the ATSDR screening. The major difference is an expansion of the ATSDR questionnaire to obtain smoking and respiratory disease history. Also, x-ray's will be read by one rather than three "B" readers.

CAG Member Question - Why are we repeating the screening?

Answer by Dr. Spence - Asbestos-related disease has a latency period. People that previously had negative screens, i.e. that had no indication of disease, may have positive screens in the future. Screening may also pick up other respiratory disease needing treatment.

CAG Member Question - Will there be a charge for people undergoing screening?

Answer by Dr. Spence - No.

CAG Member Comment - To have x-rays evaluated by the CARD Clinic and/or St. John's Hospital will have to fill out a consent form.

CAG Member Comment - We have been studied repeatedly. We need a program for treatment.

Response by Dr. Spence - I agree; we need more therapy.

CAG Member Comment - We need somewhere to go for medical treatment that won't end up costing us our homes.

Response by Dr. Spence - I agree.

CAG Member Question - The change in the number of "B-readers" from three to one is a change in the protocol. Can the state's screening results be combined with those from the ATSDR screening?

Answer by Dr. Spence - As I have previously explained, the change in the number of readers is due to economics. More readers may pick up more false positive readings.

Question by Gerald Mueller - Did any members from Montana's Congressional letter reply to the CAG's January 16, 2003 letter?

Answer - No. Members of our delegation are working on other things such as a medical trust.

CAG Member Comment - The bill introduced by Senator Baucus to establish the medical trust has a cap of \$100 thousand per person which is less than the W.R. Grace Plan. Trial lawyers involved in Libby asbestos litigation estimated that treatment may cost \$300 to \$700 thousand per person.

Audience Member Comment - My husband had cancer and his treatment cost over \$250 thousand in six weeks.

CAG Member Comment - In 30 years of working in health care, I have never seen a community come together more than we have in Libby. We have three 501(c)(3) non-profits working together, St. John's Lutheran Hospital, the Community Health Center, and the CARD Clinic, as well as 12-14 local doctors. The three non-profits have volunteer boards of directors that meet at least once and as many as four times per month. Sandy Wagner put in many hours at possible cost to her job to get the Community Health Center grant. The medical community in Libby will continue to work to provide needed health care. Over the last three years, the Hospital put some \$1 million into the CARD Clinic, including \$750 thousand from W.R. Grace. As of April 1, 2003, the CARD Clinic is an independent entity, but its financing is extremely shaky. We need more help from our federal partners and the Congress. St. John's Lutheran Hospital has a \$15 million annual budget, and we write off some \$5 million of unpaid charges each year. At the end of the coming year we hope to net \$100 thousand to keep the hospital going. We don't turn away anyone needing health care. The CARD Clinic also writes off unpaid expenses. We have to find some source or sources to fund continued medical services.

CAG Member Comment - Those of us afflicted with asbestos disease hope to go into the ground without too much debt.

CAG Member Comment - We need our hospital; it is not fair to bankrupt it.

CAG Member Comment - With the closure of the Stimson plywood mill, St. John's Hospital is Libby's largest private employer.

CAG Member Comment - People forced to leave Libby because of our economic conditions also need medical care. Grant funds are not a stable source to support our medical care; we need something permanent. The public health emergency provisions of CERCLA were drafted for the situation here in Libby. Three things should happen:

- 1. A public health emergency should be declared.*
- 2. The federal government should contract with someone to fund our medical care.*
- 3. Everyone exposed here should be given a medical card so they can get the treatment they need for the next 80 years.*

Response by Audrey Dr. Miller - The situation is frustrating, but we are making some progress. People are working hard for a solution. More work is necessary. We must be careful not to take our frustrations out on each other. Pressure must be put on people outside the community who can help. Libby continues to have political support. People who leave the Libby area should have a medical card. Libby people should not have to crawl to the Hospital for treatment. The public health emergency declaration is a potential program. Make political and agency leaders respond to you as a community. We had a good meeting at the State's new screening facility with Libby health care providers earlier today to discuss how to keep information flowing to support needed activities. We should define data gaps using all of our resources so that we can tell Congress what is needed.

CAG Member Question - Is Assistant Secretary Horinko suggesting that we go back to HHS?

Answer - EPA is not an executing agency for health care delivery. The community should

consider taking its requests to the Secretary of Health and Human Services Tommy Thomson.

CAG Member Comment - We have children and other family members who were exposed here, but no longer live here. Hospitals in their communities will not provide them services.

CARD Clinic Report

Pat Cohan reported on behalf of the CARD Clinic on the following topics.

LDC Grant - The CARD Clinic has applied for and received an LDC grant for a research meeting. This is a first step in assembling a data base including out-of-town physicians such as Dr. Whitehouse.

Healthy Community Initiative - The redevelopment conference on April 25 & 26 will include a session on clinical research needed to support health care in Libby.

Genetic and Ethics Conference - A conference on genetics and ethics and asbestos disease will be held in Helena. We need to understand better why disease progresses at different rates in different people. Hopefully, within ten years it should be possible to develop interventions in asbestos-related disease.

CAG Issues

The CAG agreed that the issues it should be addressing include:

- *Monitoring the Superfund cleanup;*
- *Funding for long-term asbestos-related health needs; and*
- *Economic revitalization.*

Public & CAG Member Comment

CAG Member Comment - Five of us went to Washington DC to visit with our Congressional Delegation. It is doubtful that we will get money for health treatment from them. In spite of our health needs, Libby's number one priority should be cleanup.

CAG Member Comment - As frustrating as things are, we should recognize how far we have come. I recently attended a conference in Atlanta where I saw that Libby is still in the forefront of our nation's focus on asbestos-related health care. We are still on the radar screen of Secretary Tommy Thomson and the US Surgeon General. We need to continue working hard and persistently with the tools available to us. The heavens are not going to open and rain money on us.

CAG Member Comment - When I found the CERCLA language about the declaration of the public health emergency, I thought that it was designed for our problems here in Libby. I first tried to determine who has the authority to make this declaration. EPA attorney Matt Cohn told me that EPA has the authority. The CAG therefore wrote to EPA asking for the designation. Now EPA appears to be saying that this is an ATSDR issue. ATSDR is saying that it lacks the money. Instead of approaching ATSDR, perhaps we should write to HHS Secretary Thomson to seek the public health care emergency declaration and funding for Libby health care.

Response by Dr. Aubrey Miller - I am not sure that the public health emergency declaration is the best avenue to HHS. This community should define the issues that are not being addressed, your need for specialty health care and a long-term source of funding for asbestos-related hospital care.

CAG Action - After a discussion the CAG agreed that Clinton Maynard, working with any other CAG members wishing to do so, should draft a letter to HHS Secretary Thomson requesting the declaration of a public health emergency in Libby and funding to support a pulmonary specialist and long-term health care. Mr. Maynard agreed to do so and to seek advice from Dr. Aubrey Miller. Mr. Maynard will bring the draft letter to the next CAG meeting.

Next Meeting

The next regular CAG meeting is scheduled for Thursday, May 8, 2003 at 7:00 p.m. in the Ponderosa Room of Libby City Hall.

Appendix 1 CAG Member & Guest Attendance List April 10, 2003

Members	Group/Organization Represented
Sandy Wagner Group (TAG)	Community Health Center/Technical Advisory
George Keck	TAG
K.W. Maki	Libby Schools
Rick Palagi	St. John's Lutheran Hospital
Bob Dedrick	Asbestos Victim
David F. Latham	<i>The Montanian Newspaper</i>
Jim Christiansen	EPA
Dan Straughnsbaugh	ATSDR
Clinton Maynard	Area Asbestos Research Group
Gary D. Swenson	Libby Fire Department
Les Skramstad	Alternate for Gayla Benefield
Norita Skramstad	Asbestos Victim
Brad Black	CARD Clinic/County Health Officer
Visitors	
Dr. Michael Spence	State Medical Officer
Maggie Bullock	Montana Department of Health and Human Services
Sharon Siska	Asbestos Screening Facility
Carol ?	
Laura Wilson	Asbestos Screening Facility
Dr. Aubrey Miller	EPA
Pat Cohan	CARD Clinic

Appendix 2
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON DC, 20460

APR 1 2003

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. Jerry Hersman
Community Advisory Group
P.O. Box 153
Libby, Montana 59923

Dear Mr. Hersman

Thank you for your letter of February 25, 2003 to Christine Todd Whitman, Administrator of the U.S. Environmental Protection Agency (EPA) concerning the asbestos cleanup in Libby, Montana and issues related to public health emergency provisions found in the Comprehensive Environmental Response, Compensation and Liability Act 1980 as amended (CERCLA). Administrator Whitman asked that I respond to your letter.

Federal funds made available through the Department of Health and Human Services (HHS) have allowed for the updating of the local hospital facility the operation of the Center for Asbestos Related Disease (CARD) and the Lincoln County Community Health Center. Through a grant to the school district, a data base of school children who may be at risk is being developed. We understand that the funding by HHS provided some additional resources to the people of Libby to help ensure that they get the best care available for the health impacts resulting from this site.

EPA will continue to work with our partners in the Health Resources and Services Administration (HRSA) of HHS to identify, the best mechanisms available to bring the needed health care to the community of Libby, Montana. The HHS Office of the Health Resources and Services Administration in Denver, Colorado provides support for the health care facilities in the State of Montana. The HRSA office in Denver may be contacted at 303-844-7877 or 7864.

As to Public Health Emergency provisions in CERCLA, in the 23-year history of the provision, EPA has never made a determination that a public health or environmental emergency exists to invoke CERCLA's exception to the general "product" rule; CERCLA See, 104(a)(1)(4).

However, in the part of the statute establishing ATSDR, CERCLA separately provides that ATSDR may, “in cases of public health emergencies provide medical care and testing to individuals...” CERCLA Sec. 104 (i) (1)(D).

EPA has worked closely with the Department of Health and Human Services (HHS) and ATSDR regarding the health of Libby residents, and have consulted on several occasions regarding this particular provision of CERCLA. EPA and ATSDR agree that EPA*s decision to invoke the “emergency” provision of 104(a)(1)(4) to support a removal action, would not pre-determine ATSDR*s independent exercise of authority under CERCLA*s separate “emergency” provisions governing ATSDR, 104(i)(1)(D). At the time the Libby Action Memorandum Amendment was signed in May 2002, ATSDR advised EPA, for reasons unrelated to any perceived nexus between these two provisions, that the substantial health screening and monitoring services being provided to the residents of Libby would not be affected by whether EPA invoked the emergency removal authority.

Thank you for inviting Administrator Whitman to the March 13, 2003, Community Advisory Group meeting. Regrettably, she was not able to attend. Nevertheless, I assure you that the Administrator and I remain fully committed to helping Region 8 achieve a timely, protective cleanup in Libby. As you know, you may continue to get in touch with Jim Christiansen, the EPA Remedial Project Manager for the work being done at Libby, at 303-312-6748.

Sincerely yours,

Marianne Lamont Horinko
Assistant Administrator